
INTRODUCTION

BACKGROUND

On May 8, 2000, the 56th Legislature convened in response to a special session call issued by Governor Racicot. The governor's special session call was limited to: 1) the legislation appropriating funds for economic development; 2) legislation clarifying the House Bill 555 bonding supporting aerospace, transportation, and technology infrastructure projects; and 3) confirmation of gubernatorial judicial appointees.

The legislature subsequently expanded the call to include or consider:

- legislation to reduce taxes;
- legislation to authorize the use of \$50 million of coal severance tax permanent trust fund for loans to finance new midsize businesses and enterprises;
- legislation to impose a moratorium on new applications for new alternative livestock ranch licenses;
- legislation to "clarify and require that economic feasibility and environmental soundness must be considered in developing and reviewing a reclamation plan and that backfilling of open pit mines is not required";
- a resolution to request the Secretary of the Interior to set aside any new proposed designation of the Missouri River;
- legislation to replace social security numbers with drivers license numbers and request a federal waiver;
- legislation to extend 1 cent aviation fuel tax;
- a constitutional tobacco trust fund for health care programs;
- a constitutional trust fund for tobacco funds to fund Medicaid programs;
- legislation to delay application of the privacy act to property and casualty insurance; and
- a resolution to urge Congress to modify estate taxes.

The legislature met from May 8th through May 11th. Four House bills, 7 Senate bills, 3 House joint resolutions and 3 Senate resolutions were passed. The legislation and their respective fiscal impacts are incorporated into the fund balance analyses for the

2001 and 2003 biennia, and are individually discussed beginning on page 19.

PURPOSE OF THE REPORT

The purpose of this document is to report to the 56th Legislature on the fiscal actions of the 2000 special session and the fiscal status of state government through the 2001 biennium. It also provides a look at the 2003 biennium to the extent that projections can be made from current known facts and assumptions that are gleaned from economic trends and demographic projections. This purpose is accomplished through presentations in the following sections:

- General Fund Outlook
 - General Fund 2001 Biennium Projections
 - Significant Issues Not in Projections
 - General Fund 2003 Biennium Outlook
 - Significant Issues Not in Projections
 - Beyond the 2003 Biennium
- Session Fiscal Actions (a discussion of approved legislation and fiscal impact)

This document is intended to briefly overview the status of the general fund account, describe those fiscal issues that were addressed by the legislature in the 2000 special session, and outline potential future issues related to the state fiscal condition. This presentation is prepared specifically as a report on the outcomes of the special session and does not include the detail customarily provided at the end of a regular session. If additional detail is desired regarding various revenue sources, agency budgets, and other fiscal information, members are encouraged to refer to the Legislative Fiscal Report – 2001 Biennium (June 1999) prepared following the 1999 session. The fiscal report provides details on appropriations and revenues of state government as determined by the 1999 legislature.

Additional reference material is included as appendices to this report. They include:

- LFD staff assignments/phone numbers (Appendix A)
- Glossary of fiscal terms (Appendix B)
- Copies of key legislation (Appendix C-E) (HB 1, HB 4, and HJR 1)

GENERAL FUND 2001 BIENNIUM PROJECTIONS

INTRODUCTION

The development of an estimated fund balance as of the end of the 2001 biennium is reflected in Tables 1 and 2. Table 1 shows the estimated fund balance adopted by the 1999 legislature in regular session. Table 2 shows the most current legislative estimate of ending fund balance, \$104.9 million, as estimated at the end of the 2000 special session. This balance includes a \$37.0 million reserve for local government reimbursements.

The variations in the fund balance from one point in time to the next reflects the dynamic nature of the state budget. It is the result of changes in assumptions based upon economic conditions and changes in other

financial data. More current revenue and disbursement information has been used when available.

1999 SESSION LEGISLATIVE PROJECTIONS

At the end of the 1999 session, the 2001 biennium ending balance was projected by the legislature to be \$51.5 million. Table 1 shows the estimated revenues and disbursements from the general fund as approved by the 1999 legislature. As pointed out in the Fiscal Report (June 1999), this projected balance included \$23.3 million for an undesignated general fund reserve and \$28.2 million for a reserve of tobacco settlement proceeds.

Table 1 Estimated General Fund Balance Based on Action By the 56th Legislature (In Millions)		
	Estimated 1999 Biennium	Estimated 2001 Biennium
Beginning Fund Balance	\$30.315	\$71.953
Revenues		
Current Revenue	2,102.493	2,224.587
Prior Revenue	(2.809)	0.000
Residual Transfers	<u>5.387</u>	<u>1.840</u>
Total Funds Available	\$2,135.386	\$2,298.380
Disbursements		
General Appropriations	1,983.012	2,068.375
Pay Plan Appropriations	0.000	21.903
Statutory Appropriations	77.745	87.591
Local Assistance Appropriations	0.000	72.814
Miscellaneous Appropriations	1.548	3.793
Supplemental Appropriations	11.459	0.000
Feed Bill Appropriations	5.564	5.438
Anticipated Reversions	<u>(15.319)</u>	<u>(3.135)</u>
Total Disbursements	\$2,064.009	\$2,256.779
Adjustments	0.576	9.931
Ending Fund Balance	<u>\$71.953</u>	<u>\$51.532</u>

GENERAL FUND 2001 BIENNIUM PROJECTIONS

2001 BIENNIUM PROJECTIONS BASED UPON LEGISLATIVE ACTION

Table 2 shows additional adjustments that are applied to revenue and disbursement projections to provide an updated forecast as of the conclusion of the 2000 special session.

There are a number of contingencies or potential impacts to the general fund balance that are not included in the numbers below. These, nonetheless,

warrant consideration and are discussed in the following section.

Table 2 shows that revenue collections, primarily from individual income tax, came in at a higher amount than originally projected for fiscal 1999. In addition, disbursements in fiscal 1999 were less than budgeted.

The legislature in the special session adopted a revised revenue estimate for the 2001 biennium in HJR 1. These numbers are reflected in Table 2.

Table 2 Revised General Fund Ending Balance (In Millions)		
	Adjustment	Estimated 2001 Biennium
Budgeted Ending Fund Balance (April 1999)		\$51.532
Fiscal 1999 Actual Adjustments		
Revenue Collections (Actual - Estimated)	19.817	
Disbursements (Budgeted - Actual)	4.625	
Fund Balance Adjustments	<u>13.278</u>	
		\$37.720
Revenue Adjustments		
HJ1 Individual Income Tax	70.528	
HJ1 Property Tax & Non-Levy	(5.748)	
HJ1 Corporation Income Tax	3.934	
HJ1 Tobacco Settlement Payments	(6.708)	
HJ1 Revenues Influenced By Oil Prices	9.828	
HJ1 Reimbursable Fire Costs	1.136	
HB4 Motor Vehicle Fee Reallocation	(8.273)	
SB2 Foreign Depository	<u>7.125</u>	
		\$71.822
Disbursement Adjustments		
HB1 Economic Development	(13.265)	
HB2 Feed Bill	(0.427)	
HB4 Public School Support	(20.000)	
HB4 Delete SB184 Appropriation	2.230	
LFD Session Continuing Appropriations	(1.694)	
LFD Statutory Appropriations	(5.069)	
LFD Anticipated Supplementals	(14.900)	
LFD Crow Tribe Compact(June 1999 Session)	<u>(3.000)</u>	
		(\$56.125)
Revised Ending Fund Balance Before Reserve		\$104.949
HB4 Local Government Reimbursement Reserve		<u>(37.000)</u>
Revised Ending Fund Balance After Reserve		<u>\$67.949</u>

GENERAL FUND 2001 BIENNIUM PROJECTIONS

For the 2001 biennium, a significant increase (\$70.5 million) in individual income tax collections is projected based upon higher wage and capital gains income growth. Oil price changes also increase state revenue projections significantly. Adjustments for disbursements include three bills (HB 1, HB 2, and HB 4) that were enacted by the legislature in the 2000 special session. These are described later in this report. Another significant downward adjustment occurs because of \$14.9 million for supplemental appropriations. The projected fund balance for the 2001 biennium is \$104.9 million which, as the table shows, includes a \$37.0 million reserve for local government reimbursements. The net increase in fund balance from the regular session is projected to be \$53.4 million.

The following narrative briefly explains each of the 2001 biennium adjustments included in Table 2. See "Session Fiscal Actions" for a more detailed discussion of approved legislation.

Fiscal 1999 Actual Adjustments

The general fund account ended fiscal 1999 with an overall fund balance improvement of \$37.7 million. Of this amount, **\$19.8** million came from higher revenue collections, **\$4.6** million from lower disbursements, and **\$13.3** million of unanticipated fund balance adjustments. A majority of the fund balance adjustment was due to a one-time accounting change.

Individual Income Tax

Estimated individual income tax revenue for the 2001 biennium increases **\$70.5** million from the amount estimated in HJR 2 in the regular session. The increase is the result of adjusting the growth rate assumptions for wage/salary and capital gain incomes and applying these rates to the calendar 1998 tax base. The actual calendar 1998 tax base was not available during the 1999 legislative session. The adjustments to the assumptions are as follows: 1) wage/salary income is estimated to increase 6.1 percent from calendar 1998 to 1999 and five percent thereafter; and 2) capital gains income is estimated to increase 15 percent from calendar 1998 to 1999, zero percent from calendar 1999 to 2000, and 10 percent thereafter.

Property Tax and Non-Levy

Property tax revenue to the general fund during the 2001 biennium is estimated to be **\$5.7** million below the amount estimated in HJR 2 in the regular session. The estimates during the session were based on tax year 1998 data whereas the new estimates are based on tax year 1999 property tax data. In addition, more refined estimates of the effects of the property tax legislation passed by the 1999 legislature are now available. Property tax legislation passed by the 1999 legislature was: 1) SB 200 (reduce business equipment tax rates from 6 percent to 3 percent); 2) HB 128 and HB 174 (reduce the tax rates on telecommunications and electrical generation property); and 3) SB 184 (phase in reappraisal for residential and commercial real estate, create exemptions and lower the class 4 tax rates).

Corporation Income Tax

The 2001 biennium general fund revenue estimate for corporation income tax is expected to increase **\$3.9** million when compared to the estimate contained in HJR 2 (1999 session). The increase is due to: 1) payment timing differences of "one-time" revenue associated with the sale of electrical generation assets; and 2) higher than anticipated collections of "on-going" corporation income tax. The biennial estimate for corporation income tax excludes any state general fund impact of the divestiture of MPC assets and the purchase of qualifying facilities contracts (see page 10).

Tobacco Settlement Payments

It is estimated that the 2001 biennium proceeds from the tobacco settlement will be \$60.1 million, or **\$6.7** million less than anticipated in HJR 2. Montana's payments are affected by a number of factors, including increases for inflation and decreases if the number of cigarettes shipped on a national basis declines. Due to large price increases for cigarettes in 1999, the number of cigarettes shipped declined 14.0 percent, more than the 2 percent anticipated by the states. This effect is cumulative, and when combined with moderate declines for subsequent years, settlement payments are expected to be less than anticipated.

GENERAL FUND 2001 BIENNIUM PROJECTIONS

Revenues Influenced by Oil Prices

Revenue to the general fund from oil production is expected to increase by **\$9.8** million in the 2001 biennium above HJR 2 estimates. This is the result of actual calendar 1998 and 1999 prices per barrel being higher than estimated and prices of \$22 per barrel for each year of the 2001 biennium.

Reimbursable Fire Costs

Although the Department of Natural Resources and Conservation has requested approval of a \$4.3 million wildfire supplemental (included in these projections), it is estimated that a reimbursement from federal agencies to the general fund will be **\$1.1** million.

HB 4 – Motor Vehicle Fee Reallocation

Beginning July 1, 2000, HB 4 eliminates the distribution of light vehicle fees to the state 55 mills (county equalization) and redistributes the remainder to all local mills, the 9-mill welfare levy, and the 1.5-mill vo-tech levy. SB 260, passed during the 1999 legislative session, had already eliminated the distribution of light vehicle revenue to the 40-mill statewide levy and the 6-mill university levy. Should HB 540 pass at the ballot in November 2000, light vehicle fees will be distributed to all local mills plus the 1.5-mill vo-tech levy, after a distribution to the district courts and the highway account have been made. The net impact of the reallocation is a reduction of **\$8.3** million general fund.

SB 2 – Foreign Depository

Senate Bill 2 reduced the semiannual tax on foreign capital depositories from 0.75 percent to 0.375 percent. Based on testimony by the executive, the reduction in the tax rate could entice \$1.7 billion in deposits between July 2000 and September 2001 and generate net general fund tax revenue of **\$7.1** million in the 2001 biennium and \$14.6 million in the 2003 biennium.

HB 1 – Economic Development

The legislature appropriated **\$13.3** million in the 2001 biennium for various economic development initiatives. These are discussed in detail on page 20.

HB 2 – Feed Bill

The legislature provided **\$426,900** general fund to fund expenses of the special session. This amount covers all session-related costs, including pre-session hearings. Any amount remaining after final payment of bills will revert to the general fund.

HB 4 – Public School Support

HB 4 increases public school support during fiscal 2001 by **\$17.8** million above the amount appropriated in HB 2, SB 100, and SB 184 during the regular 1999 session. For fiscal 2001, HB 4 increases K-12 entitlements by 3 percent, increases the direct state aid percentage to 44.7 percent from 41.8 percent, and redistributes state light vehicle revenue to local governments and school districts. HB 4 increases direct state aid by \$30 million and reduces GTB costs by \$10 million. GTB costs fall primarily because the increase in the direct state aid percent reduces the area of the base budget funded by property taxes and state GTB. In addition to the increased BASE aid appropriation authority for fiscal 2001 embodied in HB 4, expected state BASE aid costs during the 2001 biennium will require a supplemental of \$9.8 million. The supplemental is included as a recognized cost under “Anticipated Supplementals” in Table 2 and is explained on page 7.

HB 4 – Delete SB 184 Appropriation

HB 4 eliminated the appropriation of **\$2.2** million in OPI light vehicle reimbursements to school districts’ general fund enacted in SB 184 and passed during the 1999 regular session. Districts will not need this appropriation since redistribution of state light vehicle fees, also accomplished in HB 4, will bring districts’ general fund close to fiscal 1999 revenue levels.

Session Continuing Appropriations

In HB 1 (1999 session) the legislature appropriated general fund to pay for the operation of the 56th legislature, for costs of preparing for the 57th legislature, and for legislative retirement contributions. The legislature authorized these appropriations to continue into the 2001 biennium. It is estimated that **\$1.7** million will be expended in the 2001 biennium.

GENERAL FUND 2001 BIENNIUM PROJECTIONS

Statutory Appropriations

Statutory appropriation expenditures of general fund are anticipated to be \$92.7 million in the 2001 biennium or **\$5.1** million above the amount estimated in the Legislative Fiscal Report. The biennial increase is due to: 1) higher debt service payments from unanticipated timing of bond issues and higher interest rates, \$1.9 million; 2) flood and wildfire emergencies in fiscal 2000, \$1.9 million; and 3) higher police and firemen retirement payments, \$1.3 million.

Anticipated Supplementals

Table 2 includes a total of **\$14.9** million in supplemental appropriations for four purposes.

- Department of Environmental Quality - \$600,000 for bond payments. Cancellation by a surety company has left the state liable for the final zero coupon bond payment that must be paid by December 2000 to a trust fund established by the Billings Federal Court Consent Decree in 1996 for water treatment at the Zortman-Landusky mines.
- Department of Natural Resources and Conservation (DNRC) - \$4.3 million for wildfire costs. The legislature generally does not appropriate general fund to DNRC for anticipated wildfires costs. Rather, the department uses its general fund operating money to pay any costs and then asks the legislature to replace the amount through the supplemental process. The department has requested approval of a \$4.3 million wildfire supplemental for costs it incurred in fiscal 2000 for suppressing state and federal wildfires and to reimburse federal agencies for their support of state wildfires. This request includes \$750,000 for

anticipated spring fires in fiscal 2000. The request excludes the \$1.1 million spent on wildfires in fiscal 2000 from the emergency statutory appropriation. General fund spent on federal wildfires is reimbursed to the state and deposited to the general fund, less the \$350,000 each fiscal year appropriated to the department. These figures do not include any potential fiscal 2001 wildfire costs.

- Montana Historical Society - \$250,000 for the Scriver Collection. The Office of Budget and Program Planning has indicated it will seek a \$250,000 supplemental from the next legislature for transport, storage, and rent of the recently acquired Scriver Collection donated to the Montana Historical Society. The Governor has submitted a supplemental request to transfer \$125,000 from fiscal 2001 to fiscal 2000 to cover additional costs in fiscal 2000, and will seek to replace that funding in fiscal 2001 and add the anticipated costs in that year.
- Office of Public Instruction - A supplemental of \$9.8 million is expected to be requested by the Office of Public Instruction for the 2001 biennium. The supplemental will be required for increases in direct state aid and guaranteed tax base aid (GTB) to school districts' general fund and to counties' school retirement funds. The table below shows the components of the supplemental by type of BASE Aid expenditure and by fiscal year.

The fiscal 2000 BASE aid amount was appropriated in HB 2, SB 100, and SB 184, all of which passed during the 1999 regular session. As of now, expected fiscal 2000 direct state aid is above the amount appropriated due to district budget amendments. Guaranteed tax base aid for districts' general fund is expected to be above the appropriated amount by \$2.6 million. This is

Table 3
OPI Distribution To School Districts - Supplemental
2001 Biennium, In Millions

BASE Aid Component	Fiscal 2000			Fiscal 2001			Biennial Difference
	Appropriated HB2/SB100	Expected	Difference	Appropriated HB2 + HB4	Expected	Difference	
Direct State Aid	\$ 284.851	\$ 284.947	\$ 0.096	\$ 320.344	\$ 321.731	\$ 1.387	\$ 1.483
GTB - School General Fund	117.598	120.237	2.638	104.439	105.530	1.091	3.729
GTB - School Retirement	19.258	21.079	1.821	19.258	22.000	2.742	4.563
Total	\$ 421.707	\$ 426.263	\$ 4.556	\$ 444.041	\$ 449.261	\$ 5.220	\$ 9.776

GENERAL FUND 2001 BIENNIUM PROJECTIONS

primarily due to some districts' underestimating fiscal 2000 motor vehicle revenue and SB 184 reimbursements. GTB for the county school retirement fund is expected to be \$1.8 million above the appropriated amount due to a similar underestimation as well as increased retirement budgets.

A supplemental to the appropriations in HB 2, SB 100, SB 184 (from the 1999 regular session) and HB 4 (from the May 2000 special session) will still be needed in fiscal 2001. Direct state aid is expected to be \$1.5 million above the HB 4 appropriated amount because enrollment in fiscal 2000, which determines fiscal 2001 ANB, was 680 students above the estimate utilized during the regular session in 1999. The ANB increase will also increase GTB for districts' general fund by approximately \$1.1 million.

Also in fiscal 2001, it is expected that the county school retirement funds will require an additional \$2.7 million in state GTB aid compared with the appropriation. The total 2001 biennial supplemental associated with county retirement GTB is expected to be \$4.6 million. County retirement budget increases, above the amounts expected during the 1999 legislative session, are the primary reason for this portion of the supplemental request.

Crow Tribe Reserved Water Rights Compact and Coal Severance Tax Settlement

In the June 1999 special session, the legislature passed SB 1, ratifying a reserved water rights compact between the Crow Tribe and Montana. The legislature also passed HB 1, implementing the compact and appropriating \$1.5 million general fund each fiscal year of the 2001 biennium for release of all claims of the Tribe's coal severance tax suit and cost-share obligations under the compact. Payments of \$1.5 million each fiscal year are to continue through the 2009 biennium. HB 1 requires that the **\$3.0** million earn interest at the same rate as the permanent coal severance tax trust fund until the money is paid into an escrow account and that these earnings also be paid into the escrow account. The earnings will probably be paid out of the general fund. Since the legislature has not

appropriated any general fund for this purpose, any payments of interest will reduce the general fund balance. Department of Natural Resources and Conservation staff state that they are waiting for the tribe to agree to the selection of an escrow agent and they cannot pay the money until an agreement is reached. Since money in the permanent fund receives a greater rate of return than money in the general fund, the impact to the general fund increases with time.

HB 4 - Local Government Reimbursement Reserve

HB 4 reserves in the fiscal 2001 general fund ending balance an additional **\$37.0** million for SB 184 reimbursements to local governments and school districts during the 2003 biennium. In order for local governments to receive this money, the 57th legislature will have to appropriate this amount during the 2001 session.

One Time Revenues/Expenditures

The legislature has in recent biennia placed a priority on the issue of structural balance, or solvency, of the general fund budget. Structural balance is defined as matching the ongoing expenditures of government with ongoing revenues. While the legislature is required to

Table 4
General Fund
One-Time Revenue/Expenditures
(In Millions)

Source	Fiscal 1999-2000
Corporation Income Tax	
Generation Asset Sale	\$21.10
Touch America	8.6
LA Water & Power	5.3
Inheritance Tax	3.9
Tobacco Settlement	9.5
Fund Balance Adjustments	19.3
Unanticipated Reversions	4.6
One-Time Expenditures	<u>-16.4</u>
Totals	\$55.9

GENERAL FUND 2001 BIENNIUM PROJECTIONS

adopt a balanced budget, and has adopted budgets in past biennia with near matches of estimated revenues with approved expenditures, a structural imbalance can still occur if one-time revenues are used to fund ongoing expenditure levels.

The 2001 biennium legislative budget includes revenue estimates and expenditure authorizations that are nearly matched. However, there are a number of one-time revenues included in the projected balance that could result in a structural imbalance in future biennia if they are used to fund ongoing expenditures. The purpose of this section is to provide a summary of one-time revenues and expenditures in fiscal 1999, 2000, 2001.

One-Time Revenues

The projected balance includes one-time revenue sources that will not be available in future biennia, with the most significant being capital gains tax revenues from the sale of Montana Power Company electrical generation assets and fund balance adjustments, as shown in Table 4.

One-Time Expenditures

The 2001 biennium budget includes \$16.4 million in appropriations designated as one-time only (OTO) by the legislature. This distinction is made so they are not built into the ongoing budget base. The legislature traditionally makes some provision for one-time appropriations in every budget. To the extent that the expenditures are truly one time, then temporary revenue can be used to fund these expenditures while still maintaining a long-term structural balance in state finances. Therefore, these OTO designated expenditures are shown in Table 4 as an offset to one-time revenues. It should be noted that some of the expenditures are clearly for one-time uses, such as special election duties and special equipment purchases. In other cases, however, the OTO designation has been placed on programs that the legislature wishes to assess before continued funding is authorized and in some instances on programs that are ongoing.

SIGNIFICANT FISCAL ISSUES NOT IN 2001 BIENNIUM PROJECTIONS

INTRODUCTION

There are a number of potential fiscal impacts that are contingent upon non-fiscal assumptions. These include ballot issues that will or might go before the voters in the general election, the designated unreserved fund balance, the proposed sale of the energy business of Montana Power Company, a pending law suit regarding a College of Technology mill levy, and potential supplementals, among others. In the event that one or more of the following items become reality, there is a potential for impacts to the general fund balance. While these cannot be logically included in the projection of a fund balance, it is important that the potential impacts be identified and considered in a discussion of fiscal status. The table below lists these potential issues. It is followed by a brief discussion of each item.

Significant Issues not in Projections 2001 Biennium
<ul style="list-style-type: none">• Tobacco Settlement Referendum• Designated Unreserved Fund Balance• MPC Buyout of Major Qualifying Contracts• MPC Divestiture of Energy Business• College of Technology Mill Levy Legal Challenge• Department of Corrections• Potential Department of Public Health and Human Services Supplemental

TOBACCO SETTLEMENT REFERENDUM

The legislature in the 2000 special session enacted SB 13, submitting a legislative referendum to the voters which replaces the proposed Constitutional Initiative 82 (tobacco settlement initiative). CI 82 was being circulated to gain the necessary signatures to place it on the November ballot. If approved by the electorate, the referendum will amend the constitution to require the legislature to dedicate at least 40 percent of tobacco settlement proceeds to a trust fund. The principal of the trust fund will be inviolate, but a portion of interest and income from the trust will be available for the legislature to appropriate. Interest and income will be

allocated: 1) 90 percent for tobacco disease prevention programs and programs related to the health care needs of Montanans; and 2) 10 percent for deposit to the trust fund. The constitutional amendment will become effective when approved by the electorate.

Since tobacco proceeds for fiscal 2000 have already been received and deposited to the general fund, approval of this amendment will have no general fund impact in this fiscal year. However, approval of the amendment will reduce fiscal 2001 estimated general fund deposits by 40 percent, or \$10.1 million.

DESIGNATED UNRESERVED FUND BALANCE

Tobacco settlement proceeds are currently deposited in the general fund. For the 2001 biennium, HB 2 requires up to \$30 million of the proceeds in excess of the amount appropriated to be set aside for revenue stabilization in the general fund. The 1999 legislature appropriated \$38.7 million of settlement proceeds for the 2001 biennium. Since proceeds for the 2001 biennium are estimated to be \$60.1 million, there will be \$21.4 million of proceeds in the general fund that are not appropriated or set aside for revenue stabilization. The amount anticipated for the reserve at the end of the 1999 session was \$28.2 million.

MPC BUYOUT OF MAJOR QUALIFYING CONTRACTS

Montana Power Company (MPC) is in the process of negotiating a buyout of contracts with three qualifying facilities, including Montana One-Colstrip, Billings Generation, and the State of Montana (Toston Dam). Montana Power Company estimates the buyouts may cost as much as \$400 million. According to company representatives, this would result in a tax deduction for MPC in the year the buyouts occur, and the state general fund revenue loss (as compared to 1999 session projections) could be about \$16 million.

The state could recoup some of this revenue, however, if the companies with qualifying contracts incur increased Montana tax liability. Since the Toston Dam is a state facility, monies from the buyout of this contract would be deposited into a debt service account and not to the general fund.

SIGNIFICANT FISCAL ISSUES NOT IN 2001 BIENNIUM PROJECTIONS

MPC DIVESTITURE OF ENERGY BUSINESS

On March 28, 2000 the Montana Power Company announced “it will begin immediately the process of divesting the company’s multiple energy businesses, separating them from Montana’s Power’s telecommunications unit, Touch America”.¹ Touch America will be the surviving entity through which it will conduct its telecommunications business. Montana Power Company estimates the sale will take six to twelve months to complete.²

In an information session conducted by the Montana Public Service Commission on April 13, 2000, MPC officials noted the sales process was to begin in May 2000. MPC officials also noted the divestiture will be accomplished through a stock sale and not an outright asset sale. As of December 31, 1999, the book value of the property, plant, and equipment that are a part of the businesses offered for sale was approximately \$1.5 billion.³

COLLEGE OF TECHNOLOGY MILL LEVY LEGAL CHALLENGE

While vocational education has existed in Montana since 1919, the current 1.5 mill local property tax levy for the support of colleges of technology in five counties has been in effect since 1980, when the colleges were still governed by local school districts. In 1987, the governance was transferred to the Board of Regents. In 1995, when the university system restructured and three of the colleges were absorbed by the co-located four-year institutions, the 1.5 mill levy in the five counties was reenacted with the provision that the funds from the levy were to be deposited in the state general fund.

On December 20, 1999, two Cascade County taxpayers filed suit against the Montana Department of Revenue

¹ “Excerpts from Press Release”, Exhibit 99, Form 8-K, United States Securities and Exchange Commission, April 4, 2000.

² Item 5. Other Events, Form 8-K, United States Securities and Exchange Commission, April 4, 2000.

³ Ibid.

and others, alleging that the 1.5 mill levy is unconstitutional because it violates the equal protection, due process, and tax equalization provisions of the U.S. and Montana Constitutions. The petitioners requested: 1) cessation of the mill levy; 2) return to taxpayers of all unlawfully collected taxes; and 3) attorney fees and court costs. If the court rules for the petitioners, the revenue loss to the general fund would be approximately \$1.0 million each year. In addition, refunds for an unspecified number of prior years at \$1.0 million per year and undetermined court costs might be required.

DEPARTMENT OF CORRECTIONS

The department will have increased costs in the 2001 biennium of \$4.4 million due to: 1) higher costs for the male inmate population in fiscal 2000; and 2) the addition of 59.0 modified FTE and a probation and parole treatment plan added in the fall of 1999.

The cost of adding the modified FTE and probation and parole treatment plan is approximately \$3.4 million for the 2001 biennium. The department planned to fund these costs using vacancy savings, savings in the juvenile placement budget, and \$1.0 million from the contingency account appropriated to the Office of Budget and Program Planning. However, vacancy savings are not being realized in fiscal 2000 and the juvenile placement budget has exceeded the amount originally appropriated.

The department has not indicated the need for a supplemental in the 2001 biennium. However, to cover the increased costs of over \$4.0 million, the department will have to: 1) realize vacancy savings; 2) keep juvenile placement costs under control; 3) achieve savings in other areas of the department; 4) see a reduction in the percent growth of the inmate population; and 5) use the \$1.0 million contingency account appropriated to the Office of Budget and Program Planning.

POTENTIAL DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES SUPPLEMENTAL

Based on current spending patterns and DPHHS estimates of Medicaid costs, DPPHS could incur \$4.2 million in additional general fund costs above the amount of general fund appropriated for the 2001 biennium. The projected general fund supplemental is

SIGNIFICANT FISCAL ISSUES NOT IN 2001 BIENNIUM PROJECTIONS

based on the following estimated cost over runs:

- \$2.4 million in primary care Medicaid;
- \$1.7 million at Montana State Hospital;
- \$1.6 million in foster care services; and
- \$0.5 million in other mental health services.

These potential increases are partially offset by a reduction in CHIP expenditures due to lower than anticipated enrollment.

The budget director has indicated that service reductions will be an option that is considered before the executive approves a supplemental request.

However, DPHHS has not indicated how it will reduce either operating costs or services so that current cost trends are moderated and general fund spending does not exceed the appropriation. Without this information it is not possible to determine what the consequences of any reduction in services or costs will be, or if they are even possible. The special session of the legislature did not have the opportunity to review the potential policy choices that DPHHS would need to make to avoid a supplemental appropriation.

GENERAL FUND 2003 BIENNIUM OUTLOOK

INTRODUCTION

The purpose of this section is to provide an estimate (Table 5) of the potential ending fund balance in the general fund at the end of the 2003 biennium, taking into account the actions of the 2000 special session. It provides a look at the ability of present law revenues to support present law expenditure requirements. These

projections are based on “broad brush” general assumptions of expenditure and revenue patterns from the most current available information and legislatively published projections. It must be emphasized that these projections are extremely preliminary, but provide some insights into what impacts fiscal actions in the 2000 special session may have had on the 2003 biennium.

Table 5
Estimated General Fund Balance
Present Law 2003 Biennium (In Millions)

	Estimated 2001 Biennium	Estimated 2003 Biennium
Beginning Fund Balance	\$109.674	\$67.949
Revenues		
HB4 Motor Vehicle Fee Reallocation	(8.273)	(16.546)
HB4 Land Cap Sunset	0.000	0.609
SB2 Foreign Depository	7.125	14.626
SB111 Intangible Property	0.000	(9.000)
Current Revenue	2,297.557	2,386.751
Residual Transfers	1.840	(4.000)
Total Funds Available	\$2,407.923	\$2,440.389
Disbursements		
HB1 Economic Development	13.265	16.430
General Appropriations	2,088.375	2,119.639
Pay Plan Appropriations	21.903	34.632
Statutory Appropriations	92.661	93.134
Local Assistance Appropriations	70.584	70.584
Miscellaneous Appropriations	8.487	6.794
Supplemental Appropriations	14.900	0.000
Feed Bill Appropriations	5.865	5.438
Anticipated Reversions	(3.135)	(3.137)
Total Disbursements	\$2,312.905	\$2,343.514
Adjustments	9.931	0.000
Ending Fund Balance Before Reserve	\$104.949	\$96.875
HB4 Local Government Reimbursement Reserve	<u>(37.000)</u>	<u>0.000</u>
Ending Fund Balance After Reserve	<u>\$67.949</u>	<u>\$96.875</u>

Legislative Initiatives Not Included in Table 5

SB13 Create Tobacco Trust Fund	(10.130)	(24.042)
HB7 Eliminate Inheritance Tax	0.000	(19.158)
Totals	<u>(\$10.130)</u>	<u>(\$43.200)</u>

GENERAL FUND 2003 BIENNIUM OUTLOOK

For the 2003 biennium, the ending fund balance is estimated to be \$96.9 million. Funds available for the 2003 biennium increase by \$33.4 million (1.4 percent) and disbursements only increase by \$31.5 million (1.4 percent). The modest increase in funds available results from actions taken by the legislature, as prior to the session the percent increase in funds available was 4.6 percent. The modest increase in disbursement results to a large degree from a significant decrease in formula-driven school funding due to dropping enrollment figures. No areas with significant caseload or population increases were identified. Also note that there are no known supplemental appropriations or adjustments to the fund balance for the 2003 biennium. It is important to note also that the amount of \$70.6 million for local assistance appropriations is based on a strict interpretation of present law. However, because of the \$37.0 million reserved in the 2001 biennium, the \$96.9 million projection assumes that \$37.0 million is expended in the 2003 biennium.

REVENUE IMPACTS FROM LEGISLATION

The following legislation enacted during the 2000 special session are expected to result in 2003 biennium revenue impacts as described.

HB 4 – Motor Vehicle Fee Reallocation

Beginning July 1, 2000, HB 4 eliminates the distribution of light vehicle fees to the state 55 mills (county equalization) and redistributes the remainder to all local mills, the 9-mill welfare levy, and the 1.5-mill vo-tech levy. SB 260, passed during the 1999 legislative session, had already eliminated the distribution of light vehicle revenue to the 40-mill statewide levy and the 6-mill university levy. Should HB 540 pass at the ballot in November 2000, light vehicle fees will be distributed to all local mills plus the 1.5-mill vo-tech levy, after a distribution to the district courts and the highway account have been made. The fiscal impact in the 2003 biennium is \$16.5 million.

HB 4 – Land Cap Sunset

HB 4 eliminates the “Land Cap” enacted in SB 184 beginning January 1, 2002. The land cap allows certain

qualifying land to be valued at an amount equal to or less than 75 percent of the value of structures on the land.

SB 2 – Foreign Depository

Senate Bill 2 reduced the semiannual tax on foreign capital depositories from 0.75 percent to 0.375 percent. Based on assumptions by the executive, the reduction in the tax rate could entice \$1.7 billion in deposits between July 2000 and September 2001 and generate net general fund tax revenue of \$7.1 million in the 2001 biennium and \$14.6 million in the 2003 biennium.

INTANGIBLE PROPERTY

SB 111, passed by the 1999 legislature, allowed certain centrally assessed companies to deduct from the market value of their personal property an amount deemed to be due to intangible factors. The deductions will be made for the cost, market and income indicators used to value centrally assessed personal property for property tax purposes and will vary between 5 and 15 percent of each value indicator, depending on industry type. These percentage reductions are phased in at 10 percent in tax year 2000, 66 percent in tax year 2001 and 100 percent in tax year 2002. As a result of this legislation the loss in 95 mill state revenue will be approximately \$0.5 million in fiscal 2001. However, the property tax loss increases in fiscal 2003. Preliminary estimates are a loss of \$3.6 million in fiscal 2002 and \$5.4 million in fiscal 2003. More reliable estimates are expected by mid-summer.

CURRENT REVENUES

Table 5 shows that total general fund revenues are estimated to increase by \$89.2 million, or 1.9 percent annually from the 2001 biennium. Although this annual rate is below historical levels of 2.5 to 3.0 percent, one-time revenues in the 2001 biennium plus the full implementation of tax relief measures in the 2003 biennium reduces the anticipated growth rate.

DISBURSEMENT IMPACT FROM LEGISLATION

Disbursement impacts as a result of special session legislation are discussed below.

GENERAL FUND 2003 BIENNIUM OUTLOOK

HB 1 - Economic Development

The legislature statutorily appropriated \$16.4 million in the 2003 biennium for a variety of economic development initiatives that were proposed by the executive. These are discussed in more detail beginning on page 20.

GENERAL APPROPRIATIONS

General appropriations increase a net \$31.3 million for the primary reasons discussed below.

Department of Public Health and Human Services

The net cost of present law cost adjustments for the Department of Public Health and Human Services (DPHHS) is estimated to total \$21.6 million general fund in the 2003 biennium. General fund cost increases are net of \$9.4 million in reductions due to a projected decline in the state Medicaid benefit matching rate, and removal of one time only appropriations. The decline in the state Medicaid matching rate during the 2003 biennium is the most significant factor in general fund cost reductions, accounting for \$8.7 of the \$9.4 million.

The biennial costs of the most significant general fund present law adjustments are:

- Medicaid and Mental Health Services Plan caseload increases of \$17.6 million;
- \$3.7 million due to reductions in the amount of the Temporary Assistance for Needy Family (TANF) Block Grant that can be transferred to the Title XX Block Grant and used to support services for the developmentally disabled and foster care services;
- annualization of Children's Health Insurance Program (CHIP) start up of \$3.9 million over the biennium; and
- foster care and subsidized adoption caseload increases of \$3.2 million; and annualization of provider rate increases and other program expansions in fiscal 2000 of \$2.5 million.

Corrections

General fund costs in the 2003 biennium are anticipated to increase by \$13.5 million over the

2001 biennium appropriations. The net of three factors causes the projected increase:

- an increase of \$13.7 million for projected male and female population increases. Females under supervision of the department are expected to increase from an appropriated level of 1,971 in fiscal 2000 (including 1,722 in intensive supervision and probation and parole) to 2,203 in fiscal 2003 (with 1,922 in intensive supervision and probation and parole). Males under department supervision are projected to increase from 6,851 (4,240 in intensive supervision and probation and parole) in fiscal 2000 to 7,776 (4,756) in fiscal 2003;
- an increase in outside medical costs due to the increases in inmate population; and
- removal of one-time-only costs of over \$2 million for new license plates.

As stated earlier, the department has added 59.0 modified FTE and a probation and parole treatment plan in the 2001 biennium not included in the appropriation made by the 1999 legislature. The department must request continuance of these additions in new proposals. The total cost in the 2003 biennium would be about \$5.0 million general fund. This cost is not included in Table 5.

Higher Education

The 2003 biennium general fund projection of \$241.5 million for higher education is slightly lower than the estimated 2001 biennium expenditures of \$242.9 million (prior to anticipated reversions). The 2003 biennium projection is based on fiscal 2001 appropriations, adjusted for:

- estimated reversions, including \$921,060 at the community colleges;
- annualization of audit costs, additional staff at the Fire Services Training School, and the Family Practice Residency Program;
- removal of one-time only expenditures for a performance audit, non-beneficiary students at the tribal colleges, and the Montana Beef Network totaling \$1.094 million; and
- a projected increase of 138 resident FTE.

The figures do not include the estimated pay plan, which is separated for specific examination.

GENERAL FUND 2003 BIENNIUM OUTLOOK

K-12 Education

The increase in schedules and the increase in the direct state aid percentage enacted in HB 4 will become present law in the 2003 biennium and will increase state K-12 spending. HB 4 is expected to increase state BASE Aid to school districts by \$43.7 million above present law during the 2003 biennium. Partially offsetting this increase in BASE Aid will be a reduction in the state's appropriation of OPI light vehicle reimbursements to districts' general fund in the amount \$8.8 million during the 2003 biennium.

HB 4 also permanently redistributes the state's share of light vehicle revenues to local governments, approximately \$8.2 million per year, beginning July 1, 2000. The total cost to the state of HB 4 during the 2003 biennium is \$43.1 million above the present law amount before passage of HB 4.

Total BASE aid appropriations expected during the 2003 biennium will still fall short by \$4.6 million of the expected appropriations that will be required to be spent during the 2001 biennium, mainly due to the increase in BASE aid enacted in HB 4 and SB 100 (passed in the 1999 session) in fiscal 2001. If state BASE aid costs per student had remained constant between the two biennia, the state would have saved about \$24 million in total BASE aid costs as a result of declining enrollment. During the 2001 biennium, a statewide total of 317,141 ANB will be provided educational services, and during the 2003 biennium 308,278 ANB are expected to be served, a difference of 8,863 ANB.

All Other Agencies

Other increases for inflation and other workload factors were approximated through application of a 1.5 percent increase to operating expenses and equipment.

ONE-TIME-ONLY COSTS

The 2001 biennium figures in Table 5 include appropriations designated as one-time-only (OTO) by the 1999 legislature, meaning they are not to be included in the base for 2003 biennium budget building purposes. Several of the OTO appropriations are

clearly one time expenditures, such as the emergency contingency appropriation to the Governor's Office, costs to perform special election duties, and special equipment purchases.

Other OTO appropriations were made for programs established by the legislature for which they wished to evaluate progress before authorizing continuance, such as the Montana National Guard Challenge Program, the Agriculture Heritage Program, and the provision of funds to tribal colleges for non-beneficiary students. In some instances, appropriations were designated OTO for ongoing programs, such as Timber Harvest for Technology in the Office of Public Instruction. In addition, the legislature consistently makes some provision for OTO costs in every budget.

All appropriations designated as OTO, totaling over \$16 million over the biennium, have been removed from the 2003 biennium general appropriations numbers. However, for the reasons cited above, the resulting numbers should be viewed as being extremely conservative.

EMPLOYEE PAY PROPOSAL

Because implementation of the 2001 biennium pay plan is phased-in over the biennium, the costs of implementation for a full biennium will be about \$34.6 million general fund, compared to the \$21.9 million general fund appropriated for the 2001 biennium.

LOCAL ASSISTANCE APPROPRIATIONS

Local government reimbursements are included in the 2003 biennium projections at the same level as were funded in the 2001 biennium. This reflects present law funding, and does not consider the additional \$37.1 million intended by the legislature to reimburse local governments in the 2003 biennium. As previously mentioned, the legislature included a provision in HB 4 of the 2000 special session to set aside \$37.0 million for a local government reimbursement reserve. Therefore, this amount is, in effect, subtracted from the ending fund balance for the 2003 biennium.

SIGNIFICANT FISCAL ISSUES NOT IN 2003 BIENNIUM PROJECTIONS

INTRODUCTION

There are a number of potential fiscal impacts in the 2003 biennium that are contingent upon other occurrences. These include ballot issues that will or might go before the voters in the general election, the proposed sale of the energy business of Montana Power Company, intangible property taxation, and local reimbursements. In the event that one or more of the following items become reality, there is a potential impact to the 2003 biennium general fund balance. While these cannot be logically included in the projection of a fund balance, it is important that the potential impacts be identified and considered in the discussion of fiscal status. The table below lists these potential issues. It is followed by a brief discussion of each item.

Significant Issues not in Projections 2003 Biennium
<ul style="list-style-type: none">• Tobacco Settlement Referendum• CI 80 Flat Tax Initiative• MPC Buyout of Major Qualifying Contracts• MPC Divestiture of Energy Business• Inheritance Tax Referendum

TOBACCO SETTLEMENT REFERENDUM

The legislature enacted SB 13 in the 2000 special session, submitting a legislative referendum to the voters which replaces the proposed Constitutional Initiative 82. It is explained in the preceding section describing significant fiscal issues for the 2001 biennium. The issue is the same for the 2003 biennium. However, approval of the amendment will reduce fiscal

2003 estimated general fund deposits by 40 percent or \$24.0 million.

CI 80 FLAT TRANSACTION TAX

Constitutional Initiative 80 is currently being circulated for signatures. It would eliminate property, income, inheritance, accommodations, and corporate taxes, and limit fuel, motor vehicle and video gambling machine taxes, and replace them with a flat-transaction tax. If this is placed on the ballot and approved by the voters, the flat-transaction tax would be effective January 1, 2002, and the legislature would need to address its implementation during the 2001 session, including defining a “transaction” and considering exemptions. The fiscal impact of this measure is unknown at this time.

MPC BUYOUT OF MAJOR QUALIFYING CONTRACTS

This item is explained in the previous section describing “Significant Fiscal Issues Not Included in 2001 Biennium Projections”.

MPC DIVESTITURE OF ENERGY BUSINESS

This item is explained in the previous section describing “Significant Fiscal Issues Not Included in 2001 Biennium Projections”.

INHERITANCE TAX REFERENDUM

The legislature passed HB 7, which puts to the voters a referendum for the repeal of state inheritance taxes. If the repeal of the state inheritance tax is approved by the electorate, state general fund revenues are estimated to decrease by \$19.2 million in the 2003 biennium.

BEYOND THE 2003 BIENNIUM

INTRODUCTION

Looking beyond the 2003 biennium, there are two issues having potential fiscal impact that are contingent upon either a ballot initiative or economic performance. It is important that the potential impacts be identified and considered in the deliberation of fiscal issues and fund availability. These two issues are discussed below.

ANTI-GAMBLING INITIATIVE

Constitutional Initiative 81 (anti-gambling initiative) - This initiative has been approved by the Secretary of State and is currently being circulated to gain the necessary signatures to place it on the November ballot. If placed on the ballot and approved by the electorate, the initiative will amend the constitution to prohibit all forms of gambling, lotteries, and gift enterprises beginning January 1, 2004. If approved, general fund

deposits will be reduced by \$30.4 million in the 2004 biennium and by \$40.5 million for each biennium thereafter based on estimated gambling revenue deposited to the general fund for the 2001 biennium.

SB 200 TRIGGER

Senate Bill 200 (business equipment tax reduction) – The 1999 legislature passed SB 200, which provides a phased-in business equipment tax rate reduction and a progressive exemption from taxation on business equipment. The legislation also provides that beginning January 1, 2004, if the percentage growth in inflation-adjusted Montana wage and salary income from the prior year is at least 2.85 percent, then the tax rate for class eight property will be reduced by 1 percent each year until the tax rate reaches zero. In addition, beginning January 1, 2003, the legislation exempts certain items of personal property intended for rent or lease in the ordinary course of business.